

brother, half sister, uncle, aunt, nephew, niece, grandparent, granddaughter, grandson, and the spouses of the foregoing.

Rescheduling. To rewrite the rates and terms of a single note or line of credit agreement.

Restructuring. Changing terms of a debt through either a rescheduling, deferral, or writedown or a combination thereof.

Sale of guaranteed portion. See assignment of guaranteed portion.

Security. Property of any kind subject to a real or personal property lien. Any reference to “collateral” or “security property” shall be considered a reference to the term “security.”

Shared appreciation agreement. An agreement between a guaranteed lender and borrower that requires a borrower that has received a write down on a guaranteed loan secured by real estate to repay the lender some or all of the writedown received, based on a percentage of any increase in the value of that real estate at some future date, if certain conditions exist.

State. The major political subdivision of the United States and the organization of program delivery for the Agency.

Subordination. A document executed by a lender to relinquish their priority of lien in favor of another lender that provides the other lender with a priority right to collect a debt of a specific dollar amount from the sale of the same collateral.

Subsequent loans. Any loans processed by the Agency after an initial loan has been made to the same borrower.

Transfer and assumption. The conveyance by a debtor to an assuming party of the assets, collateral, and liabilities of the loan in return for the assuming party’s binding promise to pay the debt outstanding.

Typical plan. A projected income and expense statement listing all anticipated cash flows for a typical 12-month production cycle; including all farm and nonfarm income and all expenses (including debt service) to be incurred by the borrower during such period.

Unaccounted for security. Items, as indicated on the lender’s loan application, request for guarantee, or any interim agreements provided to the

Agency, that are security for the guaranteed loan that were misplaced, stolen, sold, or otherwise missing, where replacement security was not obtained or the proceeds from their sale have not been applied to the loan.

United States. The United States itself, each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Veteran. Any person who served in the military, naval, or air service during any war as defined in section 101(12) of title 38, United States Code.

[64 FR 7378, Feb. 12, 1999, as amended at 66 FR 7567, Jan. 24, 2001; 68 FR 7695, Feb. 18, 2003]

§ 762.103 Full faith and credit.

(a) *Fraud and misrepresentation.* The loan guarantee constitutes an obligation supported by the full faith and credit of the United States. The Agency may contest the guarantee only in cases of fraud or misrepresentation by a lender or holder, in which:

(1) The lender or holder had actual knowledge of the fraud or misrepresentation at the time it became the lender or holder, or

(2) The lender or holder participated in or condoned the fraud or misrepresentation.

(b) *Lender violations.* The loan guarantee cannot be enforced by the lender, regardless of when the Agency discovers the violation, to the extent that the loss is a result of:

(1) Violation of usury laws;

(2) Negligent servicing;

(3) Failure to obtain the required security; or,

(4) Failure to use loan funds for purposes specifically approved by the Agency.

(c) *Enforcement by holder.* The guarantee and right to require purchase will be directly enforceable by the holder even if:

(1) The loan guarantee is contestable based on the lender’s fraud or misrepresentation; or

(2) The loan note guarantee is unenforceable by the lender based on a lender violation.